

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14265 of 2004

Between:

Sri Puvvada Koti Lakshmi Naga Subadra Devi, W/o. Srinivasulu,
R/o. Gobbur Village, Peddarveedu Mandal,
Prakasham District.

..... PETITIONER

AND

- 1 The Joint Collector, Ongole Head Quarters, Prakasham District, Andhra Pradesh.
- 2 The Revenue Divisional Officer, Peddarveedu Mandal, Prakasham District.
- 3 The Mandal Revenue Officer, Peddarveedu Mandal, Prakasham District.
- 4 Smt. E. Annapuran, W/o. Venkata Narayana, Major, Peddarveedu Mandal,, Prakasham District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate orders, direction or writ, particularly one in the nature of Writ of Mandamus declaring the proceedings bearing No. RC.Cs2/2329/2004 dt. 21-07-2004 of the respondent No.1 in rejecting the stay petition filed on 14/07/2004 along with appeal as illegal, arbitrary, contrary to law and principles of natural justice and consecutively direct the respondents to continue the petitioner as fair shop dealer.

Counsel for the Petitioner: MR.K.ANUP KUMAR

Counsel for the Respondent No.1 to 3: GP FOR CIVIL SUPPLIES

The Court made the following :

THE HONOURABLE MS.JUSTICE G.ROHINI

WRIT PETITION NO.14265 OF 2004

ORDER:

The petitioner is a fair price shop dealer in respect of Gobbur village, Peddaraveedu Mandal of Prakasham District. Her autorisation was suspended vide proceedings of the Revenue Divisional Officer, Markapuram dated 3.7.2004 pending enquiry into alleged irregularities in distribution of essential commodities to the card holders. Against the said order dated 3.7.2004, the petitioner preferred an appeal before the first respondent Joint Collector, Prakasham District. The first respondent while entertaining the appeal, by order dated 21.7.2004 refused to grant stay of the operation of the order of suspension. Aggrieved by the same, this writ petition is filed.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Respondents 1 to 3.

The learned counsel for the petitioner contends that the order of suspension dated 03-07-2004 which is the subject matter of appeal before the 1st respondent, having been passed without affording any opportunity to the petitioner to explain the allegations is arbitrary and illegal. The learned counsel also contends that at any rate since the allegations are trivial in nature, the 1st respondent ought to have granted the stay till the disposal of the Statutory Appeal.

On a perusal of the order of suspension, dated 03-07-2004 passed by the 2nd respondent, it appears that it was in the nature of a final order and the suspension was ordered as a substantive punishment without notice to the petitioner. Having entertained the Statutory Appeal, against such an order the 1st respondent ought not to have rejected the application for stay mechanically without reference to anyone of the contentions raised by the petitioner and without assigning any reasons for rejecting the stay pending Appeal. Hence, the impugned order cannot be sustained. Having regard to the facts and circumstances of the case, I am of the view that a prima facie case is made out that the order of suspension is illegal and the balance of convenience is also in favour of the petitioner and therefore it would be appropriate to permit the petitioner to distribute the essential commodities till the disposal of the Statutory Appeal.

Accordingly the impugned order dated 21.7.2004 is hereby set aside and the writ petition is disposed of with a direction to the first respondent – Joint Collector, Ongole, Prakasam District to dispose of the main appeal pending on his file as expeditiously as possible, preferably within a period of four weeks from the date of receipt of this order. It is made clear that till the disposal of the appeal, the order of suspension passed by the 2nd respondent – Revenue Divisional Officer, Markapuram of Prakasam District dated 3.7.2004 shall not be given effect to.

The writ petition is disposed of accordingly. No costs.

12.8.2004.

mdaa.

Copy to:

- 1 The Joint Collector, Ongole Head Quarters, Prakasham District,
Andhra Pradesh.
- 2 The Revenue Divisional Officer, Peddarveedu Mandal,
Prakasam District.
- 3 The Mandal Revenue Officer, Peddarveedu Mandal,
Prakasam District.
4. Two C.Cs.to G.P.for Civil Supplies, High Court of A.P., High Court building,
Hyderabad (OUT)
5. Two C.D.copies.